



07/22/05

W
DAC

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Eugenio Cefali
Serial No.: 09/470,603
Filing Date: 22 December 1999
Docket Number: 50454-56101USCIP3
Title: NICOTINIC ACID COMPOSITIONS FOR TREATING
HYPERLIPIDEMIA AND RELATED METHODS THEREFOR
Art Unit: 1615
Examiner: Robert M. Joynes
Date: 18 July 2005

Attn: Petitions Attorney Frances Hicks (517) 272-3218)

Office of Petitions

Madison Building (West), 600 Dulany Street

Mail Stop 313(c)

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Sir:

Enclosed herewith for filing in connection with the above-referenced patent application, please find the following documents:

- 1) Petition to Expunge Information under 37 CFR §1.59;
- 2) Copy of Notice of Allowance dated 6 June 2005;
- 3) Copy of Supplemental Information Disclosure Statement sent 24 January 2005;
- 4) Letter dated 14 June from Bruce M. Kisliuk, Director of Technology Center 1600 re: Dismissal of Petition to Expunge filed 24 January 2005; and
- 5) Return Postcard.

If there are any questions, please contact applicants' undersigned attorney by telephone at (954) 331-3825.

Respectfully submitted,


Karen J. Messick

Attorney for Applicants

Registration No. 46,256

Kos Pharmaceuticals, Inc.
2200 North Commerce Parkway
Suite 300
Weston, FL 33326

Phone 954.331.3825

Fax: 954.331.3867

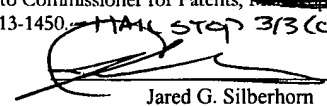
Date: 7/20/05

CERTIFICATION UNDER 37 C.F.R. §1.10

I hereby certify that the attached papers are being deposited with the United States Postal service as: Express Mail Post Office to Addressee" Service under 37 C.F.R. §1.10 on 7/20/05 and is addressed to Commissioner for Patents, ~~Mail Stop 313(c)~~ P.O. Box 1450, Alexandria, VA 22313-1450. MAIL STOP 313(c).

EL 955 246 246 US

Express Mail Label Number


Jared G. Silberhorn



PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Eugenio Cefali
Serial No.:	09/470,603
Filing Date:	22 December 1999
Docket Number:	50454-56101USCIP3
Title:	NICOTINIC ACID COMPOSITIONS FOR TREATING HYPERLIPIDEMIA AND RELATED METHODS THEREFOR
Art Unit:	1615
Examiner:	Robert M. Joynes
Date:	18 July 2005

Attn: Petitions Attorney Frances Hicks (517) 272-3218)
Office of Petitions
Madison Building (West), 600 Dulany Street

Mail Stop 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO EXPUNGE INFORMATION
UNDER 37 C.F.R. § 1.59

Sir:

As a Notice of Allowance (copy enclosed) has issued in connection with the above-referenced patent application, applicants respectfully petition the Commissioner to expunge the materials identified on the Supplemental Information Disclosure Statement sent on 24 January 2005 (copy enclosed) as "subject to protective order" if, after Examiner's consideration, any of the materials are found not to be important in deciding whether to allow the application.

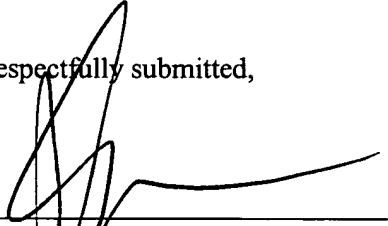
(Remainder of page left intentionally blank)

FEES

The requisite fees for this Petition were paid with the original Petition to Expunge. In a letter dated 14 June 2005 from Bruce M. Kisliuk, Director of Technology Center 1600 (copy enclosed), no additional fees are due with this new Petition. However, the Commissioner is hereby authorized to charge any necessary fees or credit any overpayments to Deposit Account No. 50-2543.

Applicants' undersigned attorney may be reached by telephone at (954) 331-3825. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

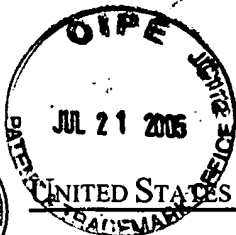


Karen J. Messick
Attorney for Applicants
Registration No. 46,256

Kos Pharmaceuticals, Inc.
2200 North Commerce Parkway
Suite 300
Weston, FL 33326

Phone 954.331.3825
Fax: 954.331.3867

Date: 7/20/05



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 06/06/2005
Karen J Messick Esq
c/o KOS Pharmaceuticals Inc
1001 Brickell Bay Drive
25th Floor
Miami, FL 33133

RECEIVED
KOS PHARMACEUTICALS, INC.
LEGAL DEPT.
BY: *[Signature]*
DATE: *6/2/06*

EXAMINER

HAGOPIAN, CASEY SHEA

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 06/06/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,603	12/22/1999	David J. Bova	20720-103793	6359

TITLE OF INVENTION: HYDROPHOBIC COMPONENT FREE SUSTAINED RELEASE NICOTINIC ACID COMPOSITIONS FOR TREATING HYPERLIPIDEMIA AND RELATED METHODS THEREFOR

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$70	\$0	\$70	09/06/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence, including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590

06/06/2005

Karen J Messick Esq
c/o KOS Pharmaceuticals Inc
1001 Brickell Bay Drive
25th Floor
Miami, FL 33133

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

JAREN C. SILBERMAN	(Depositor's name)
	(Signature)
7/20/05	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,603	12/22/1999	David J. Bova	20720-103793	6359

TITLE OF INVENTION: HYDROPHOBIC COMPONENT FREE SUSTAINED RELEASE NICOTINIC ACID COMPOSITIONS FOR TREATING HYPERLIPIDEMIA AND RELATED METHODS THEREFOR

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$70	\$0	\$70	09/06/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
HAGOPIAN, CASEY SHEA	1615	424-400000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.563).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. KAREN J. MESSICK, ESQ.

2. _____

3. _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

KOS PHARMACEUTICALS, INC.

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

MIAMI, FLORIDA USA

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

- ☒ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized to charge the required fee(s), or credit any overpayment, to Deposit Account Number 50-2543 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Typed or printed name

KAREN J. MESSICK

Date

7/20/05

Registration No.

46,256

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICELIST OF REFERENCES CITED BY APPLICANT(S)
(Use several sheets if necessary)

ATTY DOCKET NO.

50454-56101USCIP3

APPLICATION NO.

09/470,603

APPLICANT

Eugenio Cefali

FILING DATE

31 October 1997

GROUP

1615

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES/NO/ OR ABSTRACT

OTHER DOCUMENT(S) (Including Author, Title, Date, Pertinent Pages, Etc.)

	1	Expert Report of Cheryl D. Blume, Ph.D. (January 27, 2004) - Subject to Protective Order
	2	Expert Report of Dr. Sergio Fazio (February 4, 2004) [Redacted Version] - Subject to Protective Order
	3	Rebuttal Expert Report of Dr. Sergio Fazio (April 2, 2004) - Subject to Protective Order
	4	Expert Report of Dr. Sergio Fazio Regarding U.S. Patent No. 6,676,967 (August 17, 2004) - Subject to Protective Order
	5	Expert Report of Don W. Martens (February 6, 2004) [Redacted Version] - Subject to Protective Order
	6	Expert Report of Don W. Martens Regarding U.S. Patent No. 6,676,967 (August 20, 2004) [Redacted Version] - Subject to Protective Order
	7	Expert Report of Dr. Joseph R. Robinson (February 5, 2004) [Redacted Version] - Subject to Protective Order
	8	Expert Report of Dr. Joseph R. Robinson Regarding U.S. Patent No. 6,676,967 (August 18, 2004) - Subject to Protective Order
	9	Rebuttal Expert Report of Thomas S. Foster, Pharm.D. (April 2, 2004) - Subject to Protective Order

10	Rebuttal Expert Report of Thomas S. Foster, Pharm.D. Regarding The '967 Patent (October 4, 2004) - Subject to Protective Order
11	Rebuttal Expert Report of James W. McGinity, Ph.D. (April 2, 2004) - Subject to Protective Order
12	Supplemental Rebuttal Expert Report of James W. McGinity, Ph.D. (August 18, 2004) - Subject to Protective Order
13	Rebuttal Expert Report of James W. McGinity, Ph.D. Regarding The '967 Patent (September 30, 2004) - Subject to Protective Order
14	Expert Report of Mark E. McGovern, M.D. (February 6, 2004) - Subject to Protective Order
15	Expert Report of Mark E. McGovern, M.D. (August 20, 2004) - Subject to Protective Order
16	Expert Report of Frank M. Sacks, M.D. (April 2, 2004) - Subject to Protective Order
17	Expert Report of Frank M. Sacks, M.D. (August 20, 2004) - Subject to Protective Order
18	Rebuttal Expert Report of Mary Ann Tucker, Esq. (April 2, 2004) - Subject to Protective Order
19	Rebuttal Expert Report of Mary Ann Tucker, Esq. Regarding The '967 Patent (October 1, 2004) - Subject to Protective Order
20	Carl J. Lavie, et al., <i>Marked Benefit with Sustained-Release Niacin Therapy in Patients with Alsolated@ Very Low Levels of High-Density Lipoprotein Cholesterol and Coronary Artery Disease</i>, Am. J. Cardiol. 1992;69:1083-1085
21	Excerpts from the 1993, 2000, and 2002 editions of the Physician's Desk Reference
22	<i>Niacin: Double-edged Sword for Lowering Cholesterol</i>, Tufts University Diet & Nutritional Letter (Tufts Univ., Boston, MA), August 1994, Vol. 12, issue 6
23	Larsen, ML and Illingworth, DR, <i>Drug Treatment of Dyslipoproteinemia</i>, Med Clin N Am., 78:225-245 (1994)
24	Lavie, Letter to Editor, JAMA 1994; 272:513-515

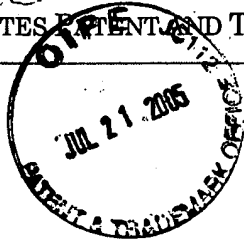
25	Keenan, Letter to Editor, JAMA 1994; 272:513-515
26	Shields & Beckmann, Letter to Editor, JAMA 1994; 272:513-515
27	Thomas N. Tozer, Clinical Pharmacokinetics Concepts and Applications (3d ed. 1995) at Chapter 9, p. 120
28	Excerpts from the United States Pharmacopeia (1995)
29	Morgan & Capuzzi Abstract, <i>Safe and Effective Treatment of Dyslipidemia by Niaspan, a New Sustained-Release Niacin</i> , Clinical Pharmacology & Therapeutics (February 1996)
30	Morgan & Capuzzi Article, <i>Treatment Effect of Niaspan, a Controlled-release Niacin, in Patients With Hypercholesterolemia: A Placebo-controlled Trial</i> , J. Cardiovasc. Pharmacol. Therapeut. 1(3):195-202 (July 1996)
31	Capuzzi DM, et al., <i>Efficacy and Safety of An Extended-Release Niacin (Niaspan): A Long-Term Study</i> , Am J Cardiol. 1998;82:74U-81U
32	Guyton JR, <i>Advances in Dyslipidemia: Discussion Session II</i> , Am J Cardiol, 1998: 82(12A): 85U-86U
33	Knopp RH, et al., <i>Equivalent Efficacy of a Time-Release Form of Niacin (Niaspan) Given Once-a-Night Versus Plain Niacin in the Management of Hyperlipidemia</i> , Metabolism 47:1097-1104 (1998)
34	American Diabetes Association: <i>Management of Dyslipidemia in Adults with Diabetes</i> , Diabetes Care 21:179-182, 1998
35	Elam MB, et al., <i>Effect of Niacin on Lipid and Lipoprotein Levels and Glycemic Control in Patients With Diabetes and Peripheral Arterial Disease</i> , JAMA: 2000; 284:1263-1270
36	Kesala R, et al., <i>Niacin (N) vs. Niaspan (NS) Treatment of the Atherogenic Lipid Profile (ALP; Small, Dense LDL, HDL2, HDLc and Triglycerides) and Lp(a) in Diabetic Patients (DP)</i> , Diabetes 49 (suppl. 1): A268 at 1114-P (June 2000)
37	2001 NCEP Report at VI-11, Table VI.2-3
38	Wang, W. et al., <i>Effect of Nicotinic Acid Administration on Hepatic Very Low Density Lipoprotein-Triglyceride Production</i> , Am J Physiol Endocrinol Metab., 280:E540-E547 (2001)

39	Smith SC, et al., <i>AHA/ACC Guidelines for Preventing Heart Attack and Death in Patients with Atherosclerotic Cardiovascular Disease: 2001 Update</i>. AHA/ACC Scientific Statement, 1577-79		
40	Tavintharan S and Kashyap M, <i>The Benefits of Niacin in Atherosclerosis</i>, Curr Athero. Reports 2001; 3:74-82		
41	Meadows M., <i>Serious Liver Injury: Leading Reason for Drug Removals, Restrictions</i>, FDA Consumer Magazine, May-June 2001; http://www.fda.gov/fdac/features/2001/301_liver.html		
42	Grundy SM, et al., <i>Efficacy, Safety, and Tolerability of Once-Daily Niacin for the Treatment of Dyslipidemia Associated with Type 2 Diabetes</i>. Arch Intern Med. 2002; 162: 1568-1576		
43	American Diabetes Association: <i>Management of Dyslipidemia in Adults with Diabetes</i>, Diabetes Care 25:S74-S77, 2002		
44	Pan J, et al., <i>Niacin Treatment of the Atherogenic Lipid Profile and Lp(a) in Diabetes</i>, Diabetes, Obesity and Metabolism 4:255-261 (2002)		
45	Pan J, et al., <i>Extended-Release Niacin Treatment of the Atherogenic Lipid Profile and Lipoprotein(a) in Diabetes</i>, Metabolism 51:1120-1127 (2002)		
46	Meyers CD, et al., <i>Varying Cost and Free Nicotinic Acid Content in Over-the-Counter Niacin Preparations for Dyslipidemia</i>, Ann Intern Med. 2003; 139:996-1002		
47	CDER Guidance for Industry, <i>Bioavailability and Bioequivalence Studies for Orally Administered Drug Products - General Considerations</i> (March 2003)		
48	American Diabetes Association: <i>Dyslipidemia Management in Adults with Diabetes</i>, Diabetes Care 27:S68-S71, 2004		
49	Sample Kos Clinical Trial Medical Consent Form - Subject to Protective Order		
50	Sample Kos Clinical Trial Investigator's Statement - Subject to Protective Order		
<table border="1"> <tr> <td>EXAMINER</td> <td>DATE CONSIDERED</td> </tr> </table>		EXAMINER	DATE CONSIDERED
EXAMINER	DATE CONSIDERED		



UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 14 2005



Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KAREN J. MESSICK, ESQ.
C/O KOS PHARMACEUTICALS, INC.
1001 BRICKELL BAY DRIVE, 25TH FLOOR
MIAMI, FL, 33133

RECEIVED
KOS PHARMACEUTICALS, INC.
LEGAL DEPT.
BY: [Signature]
DATE: 6/18/05

In re Application of
David Bova et al
Serial No.: 09/470,603
Filed: December 22, 1999
Attorney Docket No.: 50454-56101US

:
:
: PETITION DECISION
:
:

This is a response to the petition under 37 CFR 1.59(b), filed March 10, 2005, to expunge information from the above identified application.

Petitioner requests that documents submitted in an Information Disclosure Statement (IDS), filed March 10, 2005, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance. It is noted that a concurrently file petition to withdraw this application from issue has been granted, thus reopening prosecution for consideration of the IDS containing confidential material. Therefore, prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be returned to applicant.

The petition to expunge is at this time **DISMISSED**.

Upon termination of prosecution of the application applicants should submit a renewed petition to expunge the proprietary material. No fee will be due for the renewed petition.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

A handwritten signature in black ink, appearing to read "Bruce M. Kisliuk", written in a cursive style.

Bruce M. Kisliuk
Director, Technology Center 1600